VOLUME I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1958

No. 252

[redacted] WAY STORES, INCORPORATED,

APPELLANT,

vs.

[redacted] A RETAIL GROCERS ASSOCIATION, INC. AND LOUIE J. SPEED, INC.

APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

No. 252

SAFEWAY STORES, INCORPORATED,
APPELLANT,

vs.

OKLAHOMA RETAIL GROCERS ASSOCIATION,
INC. AND LOUIE J. SPEED, INC.

APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA

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[fol. A] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 37,326

SAFEWAY STORES, INC., a foreign corporation,
Plaintiff in Error,

vs.

OKLAHOMA RETAIL GROCERS ASSOCIATION, INC., a Corporation, and LOUIE J. SPEED, INC., dba SPEED'S FOOD MARKET No. 1, Defendants in Error.

PETITION IN ERROR—Filed April 19, 1956

The said Safeway Stores, Inc., a corporation, plaintiff in error, complains of said defendants in error, for that the said Oklahoma Retail Grocers Association, Inc., a corporation, on the 21st day of October, 1955, in the District Court of Oklahoma County, Oklahoma, recovered a judgment by the consideration of said Court against Safeway Stores, Inc., a corporation in a certain action then pending in said Court, whereby a permanent injunction was issued [fol. B] againt plaintiff in error; that the said Louie J. Speed, Inc., dba Speed's Food Market No. 1, recovered a judgment against plaintiff in error in said cause on the cross-petition filed by plaintiff in error against said defendant in error, by which the District Court refused a permanent injunction against such defendant in error as sought by plaintiff in error on said cross-petition, wherein plaintiff in error's application for a permanent injunction against said defendant in error was denied by the Court. The original case made duly signed, attested and filed, is hereunto attached, marked "Exhibit A", and made a part of this petition in error, and the said plaintiff in error avers that there is error in said record and proceedings in this to-wit:

1. Said Court erred in overruling motion of plaintiff in error for a new trial.

2. Said Court erred in issuing a permanent injunction against plaintiff in error enjoining and restraining it from reducing its prices on merchandise sold by it to meet the reduction in prices effected by its competitors by the giving of trading stamps.

[fol. C] 3. The Court erred in issuing a permanent injunction against plaintiff in error, enjoining and restraining it from meeting prices of merchandise previously established by its competitors in the mercantile business.

4. Said Court erred in denying plaintiff in error's application for a permanent injunction against defendant in error, Louis J. Speed, Inc., dba Speed's Food Market No. 1, and erred in refusing permanently to enjoin the said defendant in error from issuing trading stamps, or other evidence of credit, with merchandise sold by said defendant in error at or below the minimum markon required by the Oklahoma Unfair Sales Act.

5. Said Court erred in overruling the demurrer of plaintiff in error to the evidence of defendant in error, Oklahoma Retail Grocers Association, Inc., a corporation.

6. Said Court erred in rendering judgment against plaintiff in error and in favor of defendant in error, Oklahoma Retail Grocers Association, Inc., a corporation.

7. Said Court erred in rendering judgment against plaintiff in error and in favor of defendant in error, Louie J. Speed, Inc., dba Speed's Food Market No. 1, on the cross petition of plaintiff in error against said defendant in error.

[fol. D] 8. Said Court erred in admitting irrelevant, incompetent and immaterial evidence over the objections and exceptions of plaintiff in error.

9. Said Court erred in excluding competent, relevant and material evidence offered by plaintiff in error.

10. Said Court erred in limiting the scope of the expert testimony offered by plaintiff in error in rebuttal in said cause.

11. Said Court erred in refusing to limit the scope of the injunction to the issues made by the pleadings and evidence, and erred in making the injunction against plaintiff in error statewide in its operation.

12. Said Court erred in permanently enjoining plaintiff in error from giving double or multiple stamps, or other evidences of credit with the sale of merchandise, and in holding that double or multiple stamps, or other evidences of credit, violated the Oklahoma Unfair Sales Act, but that the giving of single stamps or other evidences of credit did not violate such Act.

[fol. E] 13. Said Court erred in refusing to hold that trading stamps, and similar evidences of credit, distributed with the sale of articles of merchandise in direct proportion to the prices at which such merchandise is sold effect a reduction in the sales price of such article.

14. Said Court erred in refusing to hold and decide that a non-stamp competitor has the right to meet price reductions, even though it had reason to believe that such reduced prices were below said stamp competitors' costs.

15. Said Court erred in refusing to hold and decide that under the Oklahoma Unfair Sales Act a competitor has the right, in good faith, to meet prices at which his competitors sell merchandise, and in refusing to hold and decide that proof of the meeting of such prices does not establish the evil intents and results required by said Act to constitute a violation thereof.

16. Said Court erred in refusing to hold and decide that the issuance of trading stamps, and other evidences of credit, by defendant in error, Louie J. Speed, Inc., a corporation, dba Speed's Food Market No. 1, with the sale of [fol. F] articles of merchandise by him constituted a "tied sale" as defined by sub-section (d), Section 598.2, Title O. S. A.

17. Said Court erred in compelling plaintiff in error, over its objections and exceptions, to furnish defendants in error percentage figures relating to its volume of business and relating to so-called quotas of plaintiff in error.